

STATE OF MICHIGAN
COURT OF APPEALS

RENEE WILSON,

Plaintiff/Counterdefendant-
Appellee,

v

OTIS HOGANS,

Defendant/Counterplaintiff-
Appellant.

UNPUBLISHED

June 15, 2001

No. 215730

Wayne Circuit Court

LC No. 97-721803-CH

Before: Markey, P.J., and McDonald and K. F. Kelly, JJ.

PER CURIAM.

Defendant and counterplaintiff, Otis Hogans¹ (hereafter "defendant"), appeals by right the circuit court order granting summary disposition in favor of plaintiff and counterdefendant, Renee Wilson (hereafter "plaintiff"), for a conveyance of a one-half interest in certain real property and the order denying defendant's motion for rehearing or reconsideration. We affirm in part, reverse in part, and remand.

Defendant argues that summary disposition was improperly granted for plaintiff because plaintiff's action was one for breach of contract and, therefore, was barred by the six-year period of limitations governing contract actions. MCL 600.5807(8). We disagree. Defendant's reliance on MCL 600.5807(8) is misplaced because the trial court properly viewed plaintiff's cause of action as an action to quiet title. A trial court's decisions "concerning the meaning and scope of pleading[s] . . . are within the sound discretion of the trial court and reversal is only appropriate when the trial court abuses that discretion." *Weymers v Khera*, 454 Mich 639, 654; 563 NW2d 647 (1997).

An action to quiet title is different from a contract action. A contract for the sale of land is simply a purchase agreement. *Zurcher v Herveat*, 238 Mich App 267, 291; 605 NW2d 329 (1999). Thus, MCL 600.5807 applies when an action is brought to recover damages or sums due for breach of contract or to enforce the specific performance of a contract.

¹ We note that defendant is also referred to as Otis Hogan in the lower court record.

By contrast, the purpose of an equitable action to quiet title is to "determine the *existing* title to property by removing any cloud therefrom" (emphasis added). *Ingle v Musgrave*, 159 Mich App 356, 365; 406 NW2d 492 (1987). A person's interest in property may take on different forms, including legal or equitable title. *In re Forfeiture of \$53*, 178 Mich App 480, 493; 444 NW2d 182 (1989). The law of adverse possession may also provide a basis for claiming title. *Kipka v Fountain*, 198 Mich App 435, 439; 499 NW2d 363 (1993). A plaintiff in an action to quiet title bears the initial burden of establishing a prima facie case of title. *Beulah Hoagland Appleton Qualified Personal Residence Trust v Emmet Co Rd Comm*, 236 Mich App 546, 550; 600 NW2d 698 (1999). If this burden is met, the defendant must prove a superior right of title. *Id.* In an equitable action to quiet title, a court "looks at the whole situation and grants or withholds relief as good conscience dictates." *Michigan Nat'l Bank & Trust Co v Morren*, 194 Mich App 407, 410; 487 NW2d 784 (1992), quoting *Hunter v Slater*, 331 Mich 1, 7; 49 NW2d 33 (1951). The Legislature has codified an action to quiet title in MCL 600.2932(1). *Republic Bank v Modular One LLC*, 232 Mich App 444, 448; 591 NW2d 335 (1998); see, also, MCR 3.411.

We conclude that defendant has failed to show any basis for disturbing the trial court's decision to treat plaintiff's action as one to quiet title. Therefore, defendant's reliance on the statute of limitations for a contract action is misplaced. That statute is inapplicable as a matter of law. Further, although we review a trial court's grant of summary disposition in an action to quiet title de novo, *Beulah Hoagland Appleton Qualified Personal Residence Trust*, *supra*, defendant does not challenge the merits of the trial court's decision to convey a one-half interest in the subject property to plaintiff. Hence, we find no basis for disturbing the trial court's decision. Cf. *Roberts & Son Contracting, Inc v North Oakland Development Corp*, 163 Mich App 109, 113; 413 NW2d 744 (1987) (failure to address a necessary issue precludes appellate relief).

Defendant also argues that the trial court erred by treating its decision as disposing of both plaintiff's complaint and defendant's counter-complaint. We agree that the trial court failed to properly dispose of defendant's counter-complaint.²

A trial court's ruling on a motion for rehearing or reconsideration is reviewed on appeal for an abuse of discretion. *Kokx v Bylenga*, 241 Mich App 655, 658; 617 NW2d 368 (2000); *Churchman v Rickerson*, 240 Mich App 223, 233; 611 NW2d 333 (2000). In addition, MCR 2.119(F)(3) provides a court "considerable discretion in granting reconsideration to correct mistakes, to preserve judicial economy, and to minimize costs to the parties." *Kokx*, *supra* at 659. Further, a court speaks through its orders, and this Court's jurisdiction is confined to judgments and orders. *Law Officers of Lawrence J Stockler, PC v Rose*, 174 Mich App 14, 54; 436 NW2d 70 (1989).

² Because the parties agree that the trial court disposed of the counter-complaint and it was a subject of the motion for rehearing or reconsideration, jurisdiction in this Court appears proper. See MCR 7.203(A).

We conclude that the trial court abused its discretion in denying defendant's motion for rehearing or reconsideration on defendant's counter-complaint. At the August 28, 1998 motion hearing, the trial court addressed plaintiff's claim that she was entitled to one-half interest in the real property in question, but failed to address defendant's counter-complaint alleging conversion, deceit, and exemplary damages. The transcript is silent with regard to the counter-complaint. Thereafter, defendant moved for rehearing or reconsideration on the counter-complaint claiming that the trial court had administratively dismissed the counter-complaint without cause and without resolving it. The court issued an order denying rehearing or reconsideration. Because the trial court did not address the counter-complaint in question and thus, failed to properly resolve the counter-complaint, we reverse the trial court's order denying reconsideration on this issue and remand for consideration of defendant's counter-complaint.

We affirm in part, reverse in part, and remand. We do not retain jurisdiction.

/s/ Jane E. Markey

/s/ Gary R. McDonald

/s/ Kirsten Frank Kelly